

Brian Patrick Durning  
Inmate Reg. No. 07785-510  
Federal Correctional Institution  
Fort Dix  
P.O. Box 2000  
Joint Base MDL, NJ 08640

Defendant Pro Se



UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

Z.B., et al.

Case No.: 2:24-cv-06190-FLA-DFM

Plaintiffs;

v.

DEFENDANT DURNING'S NOTICE  
OF INDIGENCY AND OBJECTION  
TO EXCESSIVE DAMAGES REQUEST

Delta Airlines, et al.

Defendants.

TO ALL PARTIES AND ATTORNEYS OF RECORD, TAKE NOTICE THAT:

Defendant Brian Patrick Durning, proceeding pro se, hereby submits this notice to inform the Court and all parties of his current financial status and to object to the excessive damages sought by Plaintiffs in this matter.

I. FINANCIAL STATUS

1. Mr. Durning is currently incarcerated and serving a five-year prison sentence.
2. Mr. Durning's total cash assets amount to approximately \$3,500.
3. Mr. Durning receives approximately \$300 per month from family members to assist with his basic needs during his incarceration.
4. Mr. Durning has no significant assets beyond the mentioned cash assets.
5. Given these circumstances, Mr. Durning is effectively judgment proof.

II. OBJECTION TO EXCESSIVE DAMAGES

1. Plaintiffs have indicated it seeks more than \$20,000,000 in compensatory and punitive damages from Mr. Durning specifically.
2. Such an amount is grossly disproportionate to Mr. Durning's ability to pay and to the actual damages that could have reasonably occurred.
3. The Supreme Court has consistently held that excessive punitive damages can violate due process. In *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1996), the Court emphasized that punitive damages must be reasonable and proportionate to the actual harm suffered.

4. Furthermore, in *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003), the Court suggested that punitive damages exceeding a single-digit ratio to compensatory damages are generally unconstitutional.

5. While these cases primarily addressed punitive damages, the principles of proportionality and due process they embody are relevant to the total damages sought in this case.

6. Given Mr. Durning's extremely limited financial resources, any award approaching the amount sought by Plaintiffs would be unconstitutionally excessive and violate due process principles.

7. The demand for such astronomical damages against an indigent defendant raises serious questions of fairness and proportionality, which are central to due process considerations.

### III. CONCLUSION

Mr. Durning respectfully requests that the Court and all parties take NOTICE of his financial status in any further proceedings or settlement discussions. Furthermore, Mr. Durning objects to the excessive damages sought by Plaintiffs as violative of due process principles established by Supreme Court precedent.

Respectfully submitted,

  
\_\_\_\_\_  
Brian Patrick Durning, Pro Se

Date:

08/26/2024

## PROOF OF SERVICE

I, the undersigned, am over the age of 18 years and not a party to the within action. My personal address is P.O. Box 2000, Joint Base MDL, NJ 08640.

On 8/26, 2024, I caused to be served the following document(s) as follows:

1. DEFENDANT DURNING'S MOTION TO STRIKE PLAINTIFFS' MOTION TO REMAND FOR RULE 5 VIOLATION
2. DEFENDANT DURNING'S NOTICE OF INDIGENCY AND OBJECTION TO EXCESSIVE DAMAGES

by depositing, in the federal institution's internal mailing system for delivery to the United States Post Office, an envelope addressed to counsel of record for each of the parties, with sufficient postage prepaid, and addressed as follows:

## ATTORNEYS FOR PLAINTIFFS

Lewis Baach Khaufmann Middlemiss PLLC  
Jessica R. Lobis Buckwalter  
1050 K Street, NW, Suite 400  
Washington, DC 20001

Agnifilo Law Group, APC  
Karen Agnifilo  
256 5th Ave.  
New York, NY 10001


De Castro Law Group, P.C.  
Jose-Manuel A. de Castro  
7590 N. Glenoaks Blvd., Suite 201  
Los Angeles, CA 91504

## ATTORNEYS FOR DELTA

Kathryn A. Grace  
Nicole T. Melvani  
8444 Westpark Drive, Suite 510  
McLean, VA 22102-5102

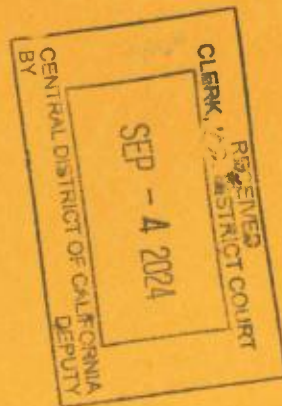
Dated: 8/26/24

By:

  
Erik Khan  
Inmate Reg. No. 66770-051  
Federal Correctional Institution  
Fort Dix  
P.O. Box 2000  
Joint Base MDL, NJ 08640

Beau Duening # 09785-576  
Fed Ex Div  
PO Box 2000  
JB MDL NJ  
08046

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U.S. District Court  
Attn: Clerk of the Court  
312 W. Spring Street  
Room 4-8  
Los Angeles, CA 90012-4701



